



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON, DC 20310-0111

March 26, 2003

MEMORANDUM FOR DEPUTY CHIEF OF STAFF, G-3

SUBJECT: Military Training, Education, and Simulation

References:

- a. Memorandum, Deputy Chief of Staff (DCS), G-3 (DAMO-FMP), 24 January 2003, subject: Request for Exemption – Non-Core Competency Working Group Review of Army G-3 Functions.
- b. Memorandum, DCS, G-3 (DAMO-ZS), 10 January 2003, subject: Request for Exemption of Selected Functional Area 57 (Simulation Operations) Officer Authorizations – ACTION MEMORANDUM.
- c. Memorandum, ASA-M&RA, 18 January 2001, subject: Initial Entry Training, Professional Military Education, and Active Component Support to Reserve Component Exemption (Exemption Number 2001-0004).
- d. Memorandum, ASA-M&RA, 18 January 2001, subject: United States Military Academy Faculty Exemption (Exemption 2001-0007).
- e. Memorandum to DCS, G-3, DAS, 14 November 2002, subject: Request for Exemption from Consideration from Outsourcing Initiatives [Safety Center]

Function. Currently initial entry training, professional military education, and AC/RC support as defined by the Training and Doctrine Command, are already exempted under an existing exemption. Therefore, the current decision applies to those aspects of professional military education not included within the existing approved exemption, as well as training development and support, including range operations, development and maintenance of training aids and simulation operations (functional area 57), and training support provided to units. In addition, the current determination applies to the Special Warfare Center and School, and civilian instructors and education support functions at the Command and General Staff College (CGSC) and the Army War College. Military and civilian career progression are addressed in separate exemption determinations. In addition, combat development, to include experimentation, testing and reviews are likewise addressed in the separate 'analysis' exemption decision.

Decision. Significant aspects of professional military education, training development and support, simulation operations, the Special Warfare Center and School, the CGSC and the Army War College are Army core competencies, and therefore should not be divested or transferred to another executive agency. In addition, training the Army is one of the functions assigned to the Secretary of the Army under Title 10, U.S. Code, Section 3013, and therefore it cannot be divested or transferred to another executive agency. It is well settled based on prior exemption determinations within the Army that the training function and Safety functions are not inherently Governmental. In fact, range operations has been the subject of numerous FAIR Act challenges and appeals, which settled that range operations is not inherently Governmental, and in fact, range operations have been included in a number of A-76 competitions. I do, however, recognize that current military experience is required to supervise operations on live fire and maneuver complex ranges in order to ensure a high fidelity of realistic training in a safe environment. Significant portions of the professional military education, simulation operations, and CGSC arguably require either military unique knowledge and skills, or, at the very least, fall within the realm of fostering military esprit de corps and are military by virtue of custom and tradition. However, reliance on custom and tradition as the sole grounds for exemption is subject to special scrutiny, and should be limited as much as possible. There is a minimum number of military personnel necessary to provide the current expertise in training developments and support. There is likewise a need for government civilian continuity in these areas, and the War College; however I will not exempt these areas at this time but will defer a decision until other methods than A-76 can be developed through the implementation planning process and TAA 08-13 review.

Finally, I accept the military essentiality of the military at the Combat Training Centers to ensure the fidelity of our premier training events. The limitations and scope of this decision are discussed in detail below.

Requestor's Positions on Issues. With regard to professional military education, the requestor cites the current approved ASA-M&RA exemption approved for military personnel in this functional area, except for the MACOM and Major Subordinate Command level NCOES instructors for which an additional exemption is requested to instruct the Basic NCO Course and the Primary leader Development Course. Additionally, the requestor wants civilian instructors and educational support functions exempted from review for the CGSC and Army War College. Requestor wants an exemption for *training* development and support for military education and training to include all training support functions within the Army not covered elsewhere, to include training range operations, development and maintenance training aids and *simulators*, and training support provided to units. '*Simulators*' is highlighted since this

is central to the Functional Area 57 (FA 57) Simulation Operation positions. The requestor asserts that FA 57 officer positions require inherently military "operators" who understand the tremendous capabilities of a simulation and are fully versed in military operational requirements to support the training audience. These officers receive special training.

Standard of Review. The senior HQDA functional official for a function must describe and substantiate specifically how preparation and implementation of a Third Wave implementation plan for each course of action poses substantial and specific risks to a core war-fighting mission of the Army (i.e., a core competency) or violates a statutory requirement affecting a function. The following are the risk factors to evaluate to consider: force management risk; operational risk; future challenges; and institutional risk. How these risk criteria are applied may vary based on each course of action evaluated (i.e., A-76; alternatives to A-76; military conversions; transfer to another agency; divestiture, and privatization). Therefore, exemption requests and decisions must assess the potentially adverse impact of each course of action.

Core Competency Relevant to Risk Issue. Significant aspects of professional military education, training development and support, simulation operations, the Special Warfare Center and School, the CGSC and the Army War College are Army core war fighting competencies, and therefore should not be divested or transferred to another executive agency. These functions arguably directly or indirectly support all of the six recognized core competencies of the Army, as provided for in Field Manual 1 and The Army Plan: Shape the Security Environment (Deter Forward); Prompt Response; Forcible Entry Operations; Mobilize the Army; Sustained Land Dominance; or Support Civil Authority. Therefore, there is an apparent force management risk (i.e., career progression issue) or operational risk associated with divesting this function.

Statutory Requirement Relevant to Divestiture Issue. Training the Army is one of the functions assigned to the Secretary of the Army under Title 10, Section 3013, and therefore it cannot be divested or transferred to another executive agency.

Inherently Governmental Relevant to Outsourcing Issue. An inherently Governmental function includes those activities that require either the exercise of substantial discretion in applying government authority or the making of value judgments in making decisions for the Government. An inherently Governmental function is so intimately related to the public interest as to require performance by Federal Government employees; it does not include providing advice to Federal Government officials. It is well settled in prior Army FAIR Act and exemption determinations that military training, training development and support, and professional military education are not inherently Governmental (even though they are, for the most part, core competencies to the Army). In addition, access to and use of privileged

information contained in Safety Reports by the Army Safety Center is not a basis for characterizing the function as inherently Governmental.

Statutes Relevant to Sourcing Decision. There are no statutes identified in the record that mandate that Government officials or members of the military perform the training-related functions included within this determination. These functions are subject to the standard statutory processes (10 U.S. Code, Section 2461 and Section 8014 of the annual appropriations acts) that require public-private competition in all but a few circumstances, such as the exceptions for functions with 10 or fewer civilian employees and for use of the preferential procurement programs (unless the functions are solely performed by military).

Personal Services. Based on the record, there appears to be little likelihood of a personal services issue arising, given the scope of the functions included or excluded from this exemption determination. I am open to further development of this issue in the case of training support and development functions, on a case-by-case basis, but see no basis for a categorical exemption on avoiding personal services grounds at the present time. The personal services issue is not relevant to the training function, unless an employee is directly supervised by an exempted official in circumstances where effective execution of duties requires the level of supervision found in an employer-employee relationship, rather than an independent contractor relationship.

Conflicts of Interest. No conflict of interest issues have been substantiated in the referenced exemption requests.

Military Conversions. Insofar as the training function is largely a core competency of the Army, deference is owed to a functional proponent's arguing for military performance in the infrastructure. In general, military performance of a function in the infrastructure turns on whether adequate performance of the function in the infrastructure requires military-unique knowledge and skills. Under certain conditions, training personnel must be military where Uniform Code of Military Justice (UCMJ) authority is needed in order to execute procedures in training situations or when recent, unique military experience is essential for a training regimen. Absent these conditions, civilians and contractors may perform many training support, development, and instructional functions. According to Office of Secretary of Defense Guidance for compiling the Inventory of Commercial and Inherently Governmental Activities, military-unique knowledge and experience can only be derived from *recent* first-hand involvement in military activities – i.e., through commanding military forces or conducting or participating in military operations or exercises. This knowledge and experience must be more substantial than familiarity with doctrine, tactics, operations, or regulations; capabilities that can be developed by civilians; or, advice military retirees

can provide based on their knowledge and experiences. However, a minimal cadre of military not otherwise justified in military unique knowledge and skills grounds, can be justified on maintaining military esprit de corps grounds pursuant to the OSD Guidance for compiling the Inventory. In these circumstances, there is an adequate basis for exempting the FA 57 simulators.

A handwritten signature in cursive script, reading "Reginald J. Brown".

Reginald J. Brown
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

Enclosures

CODING RULES for G-3 Training and Army Safety Center

1. Combat Training Centers:

a. All military in the following MDEPS

- WCJT Joint Readiness Training Center (OPTEMPO)
- WCNT National Training Center (OPTEMPO)
- WCCM Combat Maneuver Training Center (OPTEMPO)
- TCBC Battle Command Training Program
- WCTC CTC Support Activities
- WDAC Deep Attack Center

Code F – Military Unique Skills and Knowledge

b. All civilians in the above MDEPs, and in the following:

- TCCM Combat Maneuver Training Center
- TCJT Joint Readiness Training Center
- TCWA Deep Attack Center of Excellence
- TCNT National Training Center

Code P – Pending Restructuring

c. All military in the OPFOR

- WG2C99 0011 AR BN 01 AUGMENTION
- WG2D99 0011 IN BN 02 AUGMENTION

Code F – Military Unique Skills and Knowledge

2. NCO Academy

- a. All military in the following MDEPS
 - TSGT NCO Professional Development
 - QNCO NCO Academies (expired 2001)
- b. All military in the following UICs
 - W1JGAA USA NCOA 10 MTN LD
 - W25GAA USA NCOA HAWAII
 - W29VAA EIGHTH ARMY WIGHTMAN NCOA
 - W330AA USA NCOA ALASKA
 - W35MAA USA NCOA FORT POLK
 - W3Y7AA USA NCOA XVIII ABN CORPS
 - W3Y8AA USA NCOA 101ST ABN DIV

Code D – Exemptions for Military & Civilian Wartime Designations

- Code D – Exemptions for Military & Civilian Wartime Designations
- W3Y9AA USA NCOA III CORPS
 - W3ZBAA USA NCOA I CORPS
 - W43LAA USA NCOA SEVENTH ARMY TRAINING COMMAND
 - W4C9AA NCO ACADEMY

3. Training Development

All personnel in MDEP TADV (Training Development)

- a. All military (except FA49)
- b. All Civilian

Code F – Military Unique Skills and Knowledge
Code X – Candidates for alternatives to A-76

4. Training Support

Criteria for identifying Training Support for Garrison (incl USMA) are ongoing. Once identified, the following rule will be identified:

- a. All military Range Schedulers and Range Safety
- b. Other military – E7 and higher
- c. All civilian Range Schedulers and Range Safety
- d. Other civilians – GS-9 and higher

Code M – DoD Management Decision
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Code P – Pending Restructuring
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5. All military in the following units
- | | Code A – Military Operations |
|-----------------------------------|---------------------------------------|
| • W1EPAA USA AV SPT ACT AVIANO | • WC7U99 III CORPS ARTILLERY HHB AUG |
| • W1H8AA COMPANY A 511TH INFANTRY | • WCYP99 12TH AVIATION BDE HHC AUG |
| • WA9699 0593 CS HHC AUG CARRIER | • WDDD99 75TH RANGER REGIMENT HHC AUG |
| • WABP99 0508 IN BN 01 TDA | • WFA599 0027 FA BN 03 AUG CARRIER |
| • WAHD99 0001 IN HHC 01 AUG | • WH3L99 0075 IN BN 01 AUGMENTATION |
| • WAHE99 0001 AR HHC 03 AUG | • WH3M99 0075 IN BN 02 AUGMENTATION |
| • WAJ599 0004 IN HHC 03 AUG | • WHDL99 130TH ENGINEER BDE AUG |
| • WAL099 0025 IN HHC AUG | • WHN899 58TH AVIATION BN 3D AUG |
| • WAR499 0003 IN HHC AUGMENTATION | • WJBL99 0075 IN BN 03 AUGMENTATION |
| • WAT399 I CORPS HHC AUG | • WNAM99 0032 AD HHB AUG AD HHB AAMD |
| • WBVG99 0572 MI CO F CO AUG | |
6. Army Safety Center (UIC W0J7AA or MDEP FACS)
- | | Code P – Pending Restructuring
Code R – Subject to Review |
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| a. General Officers | |
| b. All others | |